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April 26, 2018

Ex Parte

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84

Dear Ms. Dortch:

On April 24, 2018, Michele Cober, Roy Litland, Fred Moacdieh, and I met with Michele Berlove, Megan Capasso, Lisa Hone, Daniel Kahn, Celia Lewis, and Terri Natoli from the Wireline Competition Bureau. During the meeting we urged the Commission to streamline the process for discontinuing legacy voice services under Section 214.¹ Our remarks were consistent with our filed comments and prior ex partes in this proceeding.²

The Commission has already begun important streamlining of the Section 214(a) discontinuance process in its 2017 *Wireline Infrastructure Order*.³ The Commission's recent action will ease the processes for migrating millions of customers from outdated copper

¹ See Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, 32 FCC Rcd 11,128, ¶¶ 171-75 (2017) (“2017 Wireline Infrastructure Order” or “FNPRM”).

² See, e.g., Verizon NPRM Comments (June 15, 2017); Verizon NPRM Reply Comments (July 17, 2017); Verizon FNPRM Comments (Jan. 17, 2018); Verizon FNPRM Reply Comments (Feb. 16, 2018); Verizon Ex Parte Letter, WC Docket Nos. 17-79 & 17-84 (Aug. 25, 2017); Verizon Ex Parte Letter, WC Docket Nos. 17-79 & 17-84 (Sept. 11, 2017); Verizon Ex Parte Letter, GN Docket 17-83, WC Docket No. 17-84 (Jan. 19, 2018).

³ 2017 Wireline Infrastructure Order ¶ 80.

networks to modern, more reliable fiber networks, and will help providers update their systems and networks as technology evolves. Yet, as the Commission has already recognized in its *FNPRM*, it should continue to examine its requirements for transitioning networks to facilitate ongoing updates.⁴ In particular, the Commission should further streamline the discontinuance process for legacy voice services as consumer demand continues to decline. Both Centers for Disease Control (CDC) and Commission data show that a majority of consumers have already migrated to communications options other than traditional plain old telephone service (POTS). The CDC's preliminary results for the first half of 2017 show that 52.5% of U.S. households reject wireline voice service altogether and rely only on wireless telephones.⁵ Another 15.1% of households are "wireless-mostly," meaning the household has a wireline telephone but "all or almost all calls" occurred on mobile wireless phones.⁶ Even many of those consumers who still have wireline services have transitioned away from traditional wireline POTS. The Commission's Form 477 data reflects that about 61% of residential wireline retail voice telephone service connections use interconnected VoIP and only about 39% use switched access lines (*i.e.* POTS).⁷ As consumers move away from legacy voice services, it makes little sense to retain antiquated, burdensome discontinuance rules that make it difficult for providers to transition to the modern voice offerings that most consumers have embraced.

Today, consumers who receive their voice service as interconnected VoIP, such as Fios Digital Voice, have the same or an even better experience than customers with traditional POTS. 911 capabilities work the same way. Consumers can plug handsets into any jack in their house, and they can use fax machines, credit card machines, medical monitoring devices, or alarms with their service. Often, the only substantive difference from the consumer's perspective is that their long distance service is now included as part of their cost of service.⁸

Wireless services offer similar potential. Consumers could, for example, have essentially the same experience as POTS using a wireless voice service that connects to a consumer's existing home wiring and that provides similar capabilities including 911. If a provider were to offer a wireless voice service that provides the same consumer experience as traditional wireline POTS, the Commission should not subject such a service to heightened scrutiny just because the last-mile connection is wireless.

⁴ *FNPRM* ¶ 3.

⁵ Wireless Substitution: Early Release of Estimates from the National Health Interview Survey at 1, January – June 2017, HHS, CDC, National Center for Health Statistics (Dec. 2017), <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201712.pdf>.

⁶ *Id.* at 3.

⁷ FCC, *Voice Telephone Services: Status as of June 30, 2016* at 3, Fig. 2 (Apr. 2017), https://apps.fcc.gov/edocs_public/attachmatch/DOC-344500A1.pdf.

⁸ VoIP services may also use a battery back-up, rules for which the Commission has previously addressed. See *Ensuring Continuity of 911 Communications*, Report and Order, 30 FCC Rcd 8677 (2015).

In both of these instances, the only possible change to the consumer's service over which the Commission might have jurisdiction is that a consumer may no longer have the ability to choose her Primary Interexchange Carrier (PIC).⁹ But the Commission has previously held that the ability to choose a PIC is a "fringe" service.¹⁰ In fact, more than two years ago, the Commission forbore from requiring providers to even provide this service to new customers going forward, as part of its equal access and dialing parity forbearance order.¹¹ And, with the growing prevalence of services that include long-distance, many consumers no longer have a PIC that differs from their local carrier.

Under these circumstances, in many instances no Section 214 application will or should be necessary at all. As we have previously explained, the Commission should issue a declaratory ruling that Section 214(a) applies only in those circumstances in which the community has no alternatives to the legacy voice service that the provider is discontinuing, reducing, or impairing.¹² Where communities will still be served by an alternative service after a provider discontinues a legacy voice offering, the Commission should hold that no Section 214(a) application is required.¹³ Specifically, the Commission should declare that no Section 214(a) discontinuance application is required where either (1) an interconnected VoIP service is offered throughout the affected area, or (2) at least one other alternative fixed or mobile voice service is available in the affected area.¹⁴ In the alternative, the Commission should find that Section 214's requirements are satisfied if either of these two conditions are met, and not require a lengthy or unwieldy application process.

Some utilities and government customers have raised questions about such a transition.¹⁵ But those entities are generally provided service subject to specific contracts which govern the terms of their service. Indeed, given their unique requirements, utilities routinely negotiate for notice periods and protection beyond what is required by the Commission. Similarly, as the Commission previously held, government customers can address service-transition concerns "in their negotiated agreements which necessarily cover service continuity provisions."¹⁶ The

⁹ Dial-tone service and most of the features of traditional voice service are wholly intrastate.

¹⁰ *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Obsolete ILEC Legacy Regulations That Inhibit Deployment of Next-Generation Networks*, Memorandum Opinion and Order, 31 FCC Rcd 6157, ¶ 49 (2015).

¹¹ *See id.* ¶ 46 n.136.

¹² *See* Verizon FNPRM Comments at 4.

¹³ *Id.*

¹⁴ *See* Verizon FNPRM Comments at 10-11; Verizon FNPRM Reply Comments at 6; AT&T FNPRM Comments at 42-43 (Jan. 17, 2018); CenturyLink FNPRM Comments at 17 (Jan. 17, 2018).

¹⁵ *See, e.g.*, Pennsylvania PUC FNPRM Reply Comments at 8-13; Utilities Technology Council FNPRM Comments at 8-9.

¹⁶ *See 2017 Wireline Infrastructure Order* ¶ 107

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Commission need not continue outdated regulatory restrictions when the entities themselves can contract for their needs and work with providers to plan for any necessary updates to networks.

Additionally, the Commission should eliminate the requirements in Sections 68.110(b) and 51.325(a)(3) that providers give written notice of network changes affecting customer equipment.¹⁷ As we have previously explained, these requirements are fundamentally flawed and unnecessary.¹⁸ Carriers cannot track every variety of customer equipment and their capabilities.

For the reasons discussed above, the Commission should revise its approach to applying Section 214(a) to legacy voice services when other voice options are available. Doing so would smooth the transition to modern voice offerings.

Very truly yours,

A handwritten signature in black ink, reading "Katharine Saunders", with a long horizontal flourish extending to the right.

Katharine R. Saunders

cc:	Daniel Kahn	Terri Natoli
	Lisa Hone	Celia Lewis
	Michele Berlove	Megan Capasso

¹⁷ *NPRM* ¶ 70; *FNPRM* ¶¶ 165-66.

¹⁸ Verizon *NPRM* Comments at 26; Verizon *FNPRM* Comments at 16-17.